

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRANK LOPA and ROSEMARIE LOPA.

Plaintiffs,

-against-

SAFEGUARD PROPERTIES MANAGEMENT, LLC,
AURORA BANK (d/b/a AURORA LOAN SERVICE
S, LLC),

Defendants.
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Ann M. Donnelly, United States District Judge:

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

14-cv-3193 (AMD) (SJB)

FILED

IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ JUN 22 2018 ★

BROOKLYN OFFICE

On May 22, 2014, the plaintiffs, Frank Lopa and Rosemarie Lopa, removed their personal injury and breach of contract action against the defendants, Safeguard Properties Management, LLC, and Aurora Bank, and Nationstar Mortgage, LLC to this Court.¹ (Not. of Removal, ECF No. 1.) On May 29, 2014, the plaintiffs filed a separate case in federal court, asserting the same facts and claims as in this case; that action was assigned to the Honorable Kiyo A. Matsumoto. *See Lopa et. al. v. Nationstar Mortgage, LLC et. al.*, 14-cv-3324 (KAM) (SJB).

On May 16, 2018, Magistrate Judge Sanket J. Bulsara issued a *sua sponte* Report and Recommendation (“R&R”) in both cases, recommending that I dismiss Rosemarie Lopa’s claims with prejudice pursuant to Rules 16(f) and 37 for failure to appear at pre-trial conferences and failure to obey court orders. (R&R, ECF No. 61.) Judge Bulsara also recommended that I dismiss Frank Lopa’s claims with prejudice for failure to substitute under Rule 25(a) after the filing of the statement noting his death. (*Id.*) Judge Bulsara ordered the parties to file objections

¹ The defendant, Nationstar Mortgage, LLC, was dismissed on December 9, 2014 after the parties filed a stipulation of dismissal. (ECF No. 20.)

by June 4, 2018. (*Id.*) The defendants served Ms. Lopa a copy of the R&R. (ECF Nos. 62-63.) To date, no objections have been filed.

On June 18, 2018, Judge Matsumoto issued an order adopting Judge Bulsara's R&R in its entirety. (*See* 14-cv-3324, ECF No. 64.) With respect to Ms. Lopa, in addition to adopting Judge Bulsara's analysis and recommendation pursuant to Rules 16(f) and 37, Judge Matsumoto also analyzed Ms. Lopa's conduct under Rule 41(b), and found that the Rule 41(b) factors also weigh in favor of dismissing her claims with prejudice. (*Id.*)

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where, as here, no party has objected to the magistrate judge's recommendation, "a district court need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

I have reviewed Judge Bulsara's comprehensive and well-reasoned opinion, and find no error. Accordingly, I adopt Judge Bulsara's Report and Recommendation in its entirety. I also adopt Judge Matsumoto's cogent analysis of Ms. Lopa's claims under Rule 41(b). All claims in this case are dismissed with prejudice. The Clerk of the Court is respectfully directed to enter judgment in favor of the defendants in this case, serve a copy of this Order and an appeals packet on Ms. Lopa at her address of record, and to close the case.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
June 22, 2018